IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

MFA.No. 589 of 2002(B)

OPMV.1459/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM
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APPELLANT: 3RD RESPONDENT

THE NEW INDIA ASSURANCE COMPANY LIMITED
NOW REPRESENTED BY ITS ASSISTANT ADMINISTRATIVE
OFFICE,REGIONAL OFFICE, KOCHI-11.

BY ADV. SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW

RESPONDENTS: PETITIONER
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1. PONNAMMA THOMAS, MUTHUKATTIL HOUSE,
VITHARIKUNNU COLONY, DAIVAMPADY BHAGOM,
MADAPALLY VILLAGE, MAMMOOD P.O.,CHANGANACHERRY
TALUK.

2. SMITHA THOMAS, DO. DO.

BY ADV. SRI.THOMAS MATHEW NJARACKAL (KOTTAYAM)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.3830 OF 2002 IN MFA.5890. OF 2002:

DISMISSED.

7.9.2007

Sd/-
J.B.KOSHY, JUDGE

Sd/-
K.HEMA, JUDGE

/TRUE COPY/

PA TO JUDGE

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.589 OF 20O2

Dated this the 7th day of September, 2007

JUDGMENT

Koshy, J.

The appellant Insurance Company challenges the award passed by the Motor Accidents Claims Tribunal. A 55 years old fish vendor died leaving his widow and daughter in a motor accident. They filed application for compensation of Rs.4,00,000/-. The matter was placed before the Lok Adalath and in the Adalath the matter was settled on 23.1.2002. It is stated in the award that after discussion with the parties the matter was settled in terms and an award was passed for Rs.1,85,000/- in favour of the petitioners. Thereafter an I.A was filed before the Tribunal contending that there was some calculation error in the award and the Tribunal reviewed the award passed in the Lok Adalath and passed a fresh award for Rs.2,31,000/-. The Tribunal noticed that there was calculation error and fixing 11 as the multiplier, compensation was recalculated. It is also submitted that under the second schedule, only 8 can be the multiplier, considering the age of the deceased. In any event the matter was settled in the Adalath. When the matter is settled in

the Adalath, it has become final. If there was any defect, it is for the parties to approach the High Court under Article 227 of the Constitution of India. In any event, the Tribunal has no power to review an award passed in the Adalath. In this connection, we refer to the Honourable Supreme Court decision reported in ***Thomas v. Thomas Job*** (2005(3) KLT 1042).

This appeal is allowed. The claimants are only entitled to the amount as per the award passed in the Adalath. The order reviewing the Adalath award as well as the consequent award of the Tribunal is set aside. No order as to costs.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, J.

M.F.A.NO.589 OF 2002

JUDGMENT

7.9.2007